

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Aven Sellers,

PETITIONER

v.

United States of America,

RESPONDENT

Crim. No. 4:11-cr-02161-TLW-9

C/A No. 4:16-cv-00968-TLW

**Order**

This matter is before the Court on Petitioner's motion to stay this habeas matter pending the Fourth Circuit's decision in *In re Hubbard*, No. 15-276.<sup>1</sup> The Government has already filed a motion to dismiss the petition, and the Court issued a *Roseboro* order, directing him to respond to the motion to dismiss by June 9, 2016.

The Court declines to stay this matter pending a decision in the *Hubbard* case. That case involves a defendant sentenced as a career offender under the then-mandatory sentencing guidelines. In contrast, Petitioner was sentenced pursuant to a Rule 11(c)(1)(C) agreement against a backdrop of advisory sentencing guidelines. At this stage, the Court is not persuaded that a decision in the *Hubbard* case will necessarily dictate the outcome in this case. Accordingly, his request to stay this case is **DENIED**.

Petitioner has also filed a motion seeking an extension of time to respond to the Government's motion to dismiss. ECF No. 989. That motion is **GRANTED**. His response is due

---

<sup>1</sup> The motion also requests the appointment of counsel, but in light of the Court's standing order appointing the Federal Public Defender to represent defendants who may be entitled to relief under *Johnson*, Case No. 3:16-mc-00223-TLW, ECF No. 1, and the AFPD's subsequent notice of appearance, ECF No. 990, the motion for appointment of counsel is **DISMISSED AS MOOT**.

within 30 days of the date of this order.

**IT IS SO ORDERED.**

*s/ Terry L. Wooten*  
Terry L. Wooten  
Chief United States District Judge

June 16, 2016  
Columbia, South Carolina